

Serial No. 10/501,725
Atty. Doc. No. 2002P02987WOUS

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REMARKS

Claims 6 - 13, 15, and 16 are pending in the application. Claims 6 - 13, 15, and 16 are rejected under 35 USC 102(e) as being anticipated by Gotoh et al. (US 7,065,471). No amendments are being made in this response. Claims 6 - 13, 15, and 16 are presented for examination.

Response to rejections under 25 USC 102(e)

Gotoh et al (US 7,065,471 B2) does not qualify as prior art under 35 USC 102 (e), because the international publication of Gotoh (WO 02/103177 A1) was in Japanese, not English. Thus the international filing date of Gotoh cannot be used to predate Applicant's priority date of 03-08-2002 as required by 35 USC 102(e). Furthermore, Gotoh does not qualify as prior art under 35 USC 102 (a) and (b) because of the Applicant's priority date. See MPEP 2136.03 (II)(B) and 35 USC 102(a, b, and e) copied below.

Applicant's dates (mm-dd-yyyy)

US filing: 07-15-2004

International filing (PCT/EP03/01864): 02-24-2003

EP priority (EP 02005438.3) : 03-08-2002

Cited reference (Gotoh) dates (mm-dd-yyyy)

US patent (7,065,471): 06-20-2006

US publication: 07-29-2004

371 completion date: 08-18-2003

International publication date (WO 02/103177 A1): 12-27-2002

International filing date (PCT/JP01/05176): 06-18-2001

No earlier priority document listed

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MPEP and 35 USC 102 citations

MPEP 2136.03 (II)

(B) If the international application was filed on or after November 29, 2000, but did not designate the United States or was not published in English under PCT Article 21(2), do not treat the international filing date as a U.S. filing date. In this situation, do not apply the reference as of its international filing date, its date of completion of the 35 U.S.C. 371(c)(1), (2) and (4) requirements, or any earlier filing date to which such an international application claims benefit or priority. The reference may be applied under 35 U.S.C. 102(a) or (b) as of its publication date, or 35 U.S.C. 102(e) as of any later U.S. filing date of an application that properly claimed the benefit of the international application (if applicable).

35 USC 102(a, b, and e)

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent,

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States,

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

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Conclusion

The cited reference does not qualify as prior art under 35 USC 102. Accordingly, this application is believed to be in condition for allowance. Reconsideration and allowance of the pending claims are respectfully requested.

The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: 1/11/07

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